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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/543,118	03/31/2006	Peter Bauer	2002P01581WOUS	4347

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EXAMINER

TRAN, HANH VAN

ART UNIT	PAPER NUMBER
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3637

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09/18/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/543,118	Applicant(s) BAUER ET AL.	
	Examiner HANH V. TRAN	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-24 and 27-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-24, 27-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/7/2008 has been entered.
2. Applicant's amendment to claim 28 has overcome the objection to the drawing in paragraph #2 of the Office action mailed on 4/2/2008.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 15-24, 27, 33 and 35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. In claim 15, the preamble clearly indicates that a subcombination is being claimed, i.e., "[A] door for a refrigerating appliance..., the door comprising:". This language would lead the examiner to believe that the applicant intends to claim only the subcombination of a "door", the refrigerating appliance is only functionally recited. The problem arises when the refrigerating appliance is positively recited within the body of the claim, such as, "wherein the door covers the body of the refrigerating appliance..." In this case there is an inconsistency within the claim. The preamble indicates

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subcombination, while in the body of the claim in at least one instance there is a positive recital of structure indicating that the combination of a door and refrigerating appliance and/or its components is being claimed. The examiner cannot be sure if applicant's intent is to claim merely the door or the door in combination with the refrigerating appliance. Applicant is required to clarify what the claim is intended to be drawn to, and the language of the claim is amended to be consistent with the intent. For the purpose of this examination, the examiner is considering that the claim is drawn to the combination of a door and a refrigerating appliance. If applicant's intent is to claim the subcombination of a door, then "wherein the door covers" should be "wherein the door is configured to cover".

6. In regard to claim 33, since claim 31 recited the door including a "transparent pane", the limitation in claim 33 of "said pane formed from at least one of a highly transparent material and an opaque material" renders the claim indefinite for failing to clearly define how it is possible for a transparent pane to form from "at least one of a highly transparent material and an opaque material" at the same time. Clarification or correction is required.

7. In regard to claim 35, since claim 20 recited the door including a "transparent pane", the limitation in claim 35 of "said pane formed from a selected one of a highly transparent material and an opaque material" renders the claim indefinite for failing to clearly define how it is possible for a transparent pane to form from "a selected one of a highly transparent material and an opaque material" at the same time. Clarification or correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 15-20, 22-24, 28-31, 33 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by WO 02/065036 to Bukulmez et al.

Bukulmez et al discloses a refrigerating appliance comprising all the elements recited in the above listed claims including a body, comprising: a door 2 abutting the body in a closed position; a display element/control panel 3; a viewing window 13 formed on said body; and said viewing window 13 oriented such that said display element/control panel 3 is visible when said door is closed, said door comprising: an outer wall; an inner wall; said outer wall and said inner wall interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door; and one transverse edge formed with said viewing window 13 extending over said depth of door, said door having a rectangular outline and a pair of shorter rectangular sides and a pair of longer rectangular sides joining said shorter sides into said rectangular outline, including said viewing window 13 formed on one of said shorter rectangular sides of said door serving as said transverse edge, a transverse edge of said outer wall and a corresponding transverse edge of said inner wall lie opposite one

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another and an opening serving as said viewing window formed over said depth of said door, said transverse edge of said outer wall has said viewing window formed therein serving as a recess and projecting over said corresponding transverse edge of said inner wall, a first end element 9 affixed to the edge of said outer wall and an edge of said inner wall, said first end element and said outer and inner walls define an insulating intermediate space, said first end element following the contour of said viewing window, a transparent pane 14 arranged in said viewing window 13, with said pane 14 inserted in a window cut-out formed in said end element 9; wherein the door 2 covers the body of the refrigerating appliance to its upper edge and wherein the control panel 3 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window 13.

Claim Rejections - 35 USC § 103

10. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

12. Claims 21, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al.

Bukulmez et al discloses all the elements as discussed above except for the pane formed integrally with said end element.

In regard to the pane formed integrally with the end element (instead of two parts), the examiner takes the position that it would have been obvious to have the pane of Bukulmez formed integrally with the end element, since it is well known that constructing formerly various structures into a single or integral structure or vice versa involves only routine and well within the level of one skill in the art.

13. Claims 27 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bukulmez et al in view of DE 9218613 to Licentia.

Bukulmez et al discloses all the elements as discussed above except for the door including a non-transparent decoration formed at least on a portion of the back of the pane.

Licentia teaches the idea of providing a household appliance with a non-transparent decoration in a panel for aesthetic purpose. Therefore, it would have been obvious to modify the structure of Bukulmez et al by providing the door with a non-transparent decoration for aesthetic purpose, as taught by Licentia, since both teach alternate conventional household appliance structure, thereby providing structure as claimed.

14. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 02/065036 to Bukulmez et al in view of USP 6,101,819 to Onaka et al and USP 7,031,144 to Carter et al.

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Bukulmez discloses a refrigerator appliance comprising a body with a back side, a front side extending between an upper front edge and a lower front edge, an opening formed in the front side, and a top surface 10 extending to and between the back side and the front side, a control panel 3 mounted on the upper front edge of the body, the control panel 3 extending between the back side and the front side; and a door 2, the door 2 being operable to close off the opening formed in the front side of the body and the door 2 having an outer wall, an inner wall, the outer wall and the inner wall interconnected along their longitudinal and transverse edges forming a space therebetween to form a depth for the door, and one transverse edge formed with a viewing window 13 extending over the depth of the door, wherein the door 2 covers the body of the refrigerating appliance to its upper edge and wherein the control panel 3 mounted on the upper front edge of the front side of the body of the refrigerating appliance is visible through the viewing window 13.

The different being that Bukulmez fails to teach the control panel 3 mounted on the upper front edge of the front side of the body and extending to a height such that no portion of the control panel extends higher than the top surface (the control panel mounted to the front surface of the front side instead of the top surface 10 at the upper front edge of the body).

However, Onaka (figs 1-3) and Carter (figs 14-15) both show that it is well known in the art to also having a control panel mounted to the front edge of the front side of a body of a refrigerator appliance such that no portion of the control panel extends higher than the top surface of the body; wherein mounting the control panel to the front side of

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the body of a refrigerator facilitates viewing of the control panel, yet reduces the overall dimension of the refrigerator appliance. Therefore, it would have been obvious to one having ordinary skill in the art to modify the structure of Bukulmez by having the control panel 3 mounted on the upper front edge of the front side of the body and extending to a height such that no portion of the control panel extends higher than the top surface in order to facilitate viewing of the control panel, yet reducing the overall dimension of the refrigerator appliance.

Response to Arguments

15. Applicant's arguments filed 7/7/2008 have been fully considered but they are not persuasive. In response to applicant's arguments on page 8 that the applied references fail to teach or suggest the limitation in claim 15 of "a control panel mounted on an upper front edge of a body of the refrigerating appliance that is visible through a viewing window of a door", the examiner respectfully takes the position that the claimed language fails to provide adequate structural limitation to the claim in order to distinguish from the prior art of record. Bukulmez clearly discloses a control panel 3 mounted on an upper front edge of the body that is visible through a viewing window 13 of a door 2, thus meets the claimed limitations. In response to applicant's argument on page 8 that the applied references fail to teach or suggest the limitation in claim 28 of a "display element mounted at an upper front edge of the body and a viewing window oriented such that said display element is visible when said door is closed", the examiner again respectfully takes the position that the claimed language fails to provide adequate structural limitation to the claim in order to distinguish from the prior art of

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record. Bukulmez clearly discloses a display element 3 mounted at an upper front edge of the body and a viewing window 13 oriented such that said display element 3 is visible when said door is closed, thus meets the claimed limitations.

16. In regard to applicant's argument on page 9 that the control panel of Bukulmez is mounted on the top of the body, not on an upper front edge of the body, the examiner again respectfully takes the position that the claimed language in claims 15 and 28 fails to provide adequate structural limitation to the claim in order to distinguish from Bukulmez, and Bukulmez clearly shows the control panel 3 is mounted on the top panel and on an upper front edge of the body of the refrigerating appliance, thus meets the claimed limitation.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HANH V. TRAN whose telephone number is (571)272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT
September 14, 2008

/Hanh V. Tran/
Examiner, Art Unit 3637

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